



INTERNATIONAL  
CODE  
COUNCIL®

# 2024 IECC Appeals

ICC Board of Directors  
Actions Report



April 11, 2024  
[www.iccsafe.org](http://www.iccsafe.org)

# Executive Summary

The 2024 International Energy Conservation Code® (IECC®) ICC Board of Directors Appeals Hearing was conducted on March 18, 2024. The ICC Board heard from the appellants, the ICC staff presented its recommendations, and with the available time remaining the ICC Board heard from interested parties in support of and in opposition to the appeals. The ICC Board was presented with the report from the Appeals Board on March 4, 2024.

Details regarding the appeals can be found on the [2024 IECC Appeals website](#).

Following conclusion of the public hearing, the ICC Board entered into an Executive Session where it considered five preemption issues, nine appeals filed by five appellants, and three recommendations submitted by the Appeals Board. The following lists the preemption issues identified and the appeals filed.

<i>Preemption Issue</i>	
1	IECC Commercial Sections C502.3.7.1 and C406.1.1.1
2	IECC Commercial Appendix CD [2030 Glide Path]
3	IECC Commercial Appendix CG [All Electric]
4	IECC Residential Appendix RG [2030 Glide Path]
5	IECC Residential Appendix RE [2030 All Electric Glide Path]

<i>Appellant</i>	<i>Number of Appeals</i>
Air-Conditioning, Heating, and Refrigeration Institute (AHRI)	1
American Gas Association (AGA)	1
American Public Gas Association (APGA)	1
Building Owners and Managers Association (BOMA) and National Multi-Housing Council (NMHC)	4
Region VI ICC	2

A Notice of Hearing was issued in accordance with CP-01. Forty-five viewpoint papers were submitted and over 100 individuals registered to speak as an appellant or interested party in support of or in opposition to the appeals filed and provided to the ICC Board of Directors.

The ICC Board found it more likely than not that certain provisions identified in **Table 1 Preemption Decisions** presented risk of preemption under U.S. law and made changes to the provisions of the 2024 IECC to address those risks.

The ICC Board determined that the scope and intent statements governing the 2024 IECC prohibited the inclusion of measures that did not directly affect building energy conservation within the base of the draft 2024 IECC. The ICC Board further determined that alternative measures, including measures without direct impacts to building energy conservation, but that may reduce greenhouse gas emissions, could be included only as appendix materials given the intent provisions of both the residential and commercial IECC codes. To remedy these violations, the ICC Board moved the affected content to appendices, as outlined in **Table 2 Appeals Decisions**.

## CONCLUSION

The ICC Board of Directors voted to affirm in part and reject in part nine appeals filed by five appellants to a draft of the 2024 commercial and residential editions of the International Energy Conservation Code (IECC). The Board also addressed several claims that aspects of the draft 2024 IECC codes were preempted by the federal Energy Policy and Conservation Act.

The Code Council issued a summary statement of the decisions made by the ICC Board through an [ICC Pulse published on March 20, 2024, which is included herein within the Appendix](#).

Through these actions, the ICC Board finalized consideration of the 2024 IECC. See Section 7.3 of CP-01 – Appeals (“The decision of ICC Board shall be final”). The ICC Board of Directors had robust debate on all of the issues presented, and although some of the votes were not unanimous, the ICC Board is unified in the decisions made.

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# 2024 IECC Appeals Board of Directors Actions Report

The ICC Board of Directors was provided with an overview of the preemption issues raised, a summary of the 9 individual appeals filed, and a summary of the Appeals Board findings and recommendations. The ICC Board provided determinations as detailed in the following sections.

## Preemption Decisions

### SUMMARY OF DECISIONS

The resolution of potential preemption issues is covered under CP-49 - Conforming Codes and Standards to United States Federal Law and International Law. Section 1 of CP-49 provides that “[i]t is the policy of ICC that its Codes and Standards should conform to, and should not conflict with, the laws and requirements of the United States government. Additionally, it is the goal of ICC that its Codes and Standards should not contain any provisions that would preclude the Codes and Standards from being adopted internationally.” Section 3.3 of CP-49 allows the Board of Directors to “take any action it deems appropriate at any time to address potential preemption or adoption issues.” Issues of preemption are limited to areas of conflict relating to US government law.

The ICC Board considered concerns voiced by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) that provisions in the draft IECC codes were federally preempted by the Energy Policy and Conservation Act. Where the ICC Board determined there was a significant risk of preemption based on case law or the ICC Board had concerns about the ability to comply with provisions using minimum efficiency equipment, the ICC Board decided to move those provisions to a resource with the below-listed cautionary note regarding the risk of preemption. The following table summarizes the decisions of the ICC Board relating to the preemption issues presented.

*Note: Related to minimum efficiency equipment, the inability to comply with minimum efficiency equipment raises preemption concerns.*

**Table 1 Preemption Decisions**

Preemption Issue	Board Decision
1 IECC Commercial Sections C502.3.7.1 and C406.1.1.1	<p><u>Action:</u> No decision rendered<sup>1</sup></p> <p><u>Direction:</u> Not Applicable</p> <p><u>Voting:</u> For (18) and Against (0)</p>
2 IECC Commercial Appendix CD [2030 Glide Path]	<p><u>Action:</u> Decision rendered.</p> <p><u>Direction:</u> Retain performance path in Appendix CD. Move prescriptive path to resource with a notation due to significant risk of preemption based on an inability to comply with minimum efficiency equipment.</p> <p><u>Voting:</u> For (17) and Against (1)</p>

Preemption Issue	Board Decision
3 IECC Commercial Appendix CG [All Electric]	<p><u>Action:</u> Decision rendered.</p> <p><u>Direction:</u> Move All-Electric content to a resource with a notation due to significant risk of preemption based on case law.</p> <p><u>Voting:</u> For (18) and Against (0)</p>
4 IECC Residential Appendix RG [2030 Glide Path]	<p><u>Action:</u> Decision rendered.</p> <p><u>Direction:</u> Retain content in Appendix RG (No preemption). Add cautionary note that compliance options are limited in certain specified climate zones.</p> <p><u>Voting:</u> For (15) and Against (3)</p>
5 IECC Residential Appendix RE [2030 All Electric Glide Path]	<p><u>Action:</u> Decision rendered.</p> <p><u>Direction:</u> Move All-Electric content to a resource with a notation due to significant risk of preemption based on case law.</p> <p><u>Voting:</u> For (18) and Against (0)</p>

**Notes:**

1. *The ICC Board deferred the decision on this preemption issue and then, due to actions taken on the appeals, later decided no action was required on the preemption issue because they believed it was adequately addressed by their actions on the related appeals.*

## Appeals Decisions

The 2024 IECC Appeals Board provided a report to the ICC CEO for the ICC Board of Directors on its findings and recommendations. The ICC Board of Directors rendered a decision on each appeal filed.

### APPEALS BOARD REPORT

The Appeals Board Report was provided to the ICC Board of Directors.

### SUMMARY OF ICC BOARD DECISIONS

The ICC Board further determined that the placement of several provisions subject to the appeals was inconsistent with the 2024 IECC’s intent statement, constituting process violations. Specifically, the ICC Board determined that the scope and intent governing the 2024 IECC prohibited the inclusion of measures within the base of the draft 2024 IECC that did not directly affect building energy conservation as both the commercial and residential 2024 IECC codes intent statement is limited to “providing minimum efficiency requirements for buildings that result in the maximum level of energy efficiency that is safe, technologically feasible, and life cycle cost effective considering economic feasibility, including potential costs and saving for consumers and building owners, and return on investment.” The ICC Board further determined that alternative measures, including measures without direct impacts to building energy conservation, but that may reduce greenhouse gas emissions, could only be included as appendix materials given the intent provision of the residential and

commercial IECC codes provides that “[t]he code may include nonmandatory appendices incorporating additional energy efficiency and greenhouse gas reduction resources.” To remedy these violations, the ICC Board moved the affected content to appendices, as outlined in **Table 2 Appeals Decisions**.

The following table summarizes the decisions of the ICC Board relating to the appeals.

**Table 2 Appeals Decisions**

<i>Appeal</i>	<i>Appellant</i>	<i>Decision</i>
<b>1</b>	BOMA/NMHC (Heat Pumps)	<u>Action</u> : Appeal supported. <u>Reason</u> : The Board found that these provisions did not meet the scope and intent as set by the Board of Directors. <u>Direction</u> : Move sections identified in appeal to an appendix. <u>Voting</u> : For (13) and Against (5)
<b>2</b>	BOMA/NMHC (Demand Responsive Controls)	<u>Action</u> : Appeal supported. <u>Reason</u> : The Board found that these provisions did not meet the scope and intent as set by the Board of Directors. <u>Direction</u> : Move sections identified in appeal to an appendix. <u>Voting</u> : For (12) and Against (6)
<b>3</b>	BOMA/NMHC (EV Charging)	<u>Action</u> : Appeal supported. <u>Reason</u> : The Board found that these provisions did not meet the scope and intent as set by the Board of Directors. <u>Direction</u> : Move sections identified in appeal to an appendix. <u>Voting</u> <sup>2</sup> : For (10) and Against (7)
<b>4</b>	BOMA/NMHC (Energy Storage Ready)	<u>Action</u> : Appeal supported. <u>Reason</u> : The Board found that these provisions did not meet the scope and intent as set by the Board of Directors. <u>Direction</u> : Move sections identified in appeal to an appendix. <u>Voting</u> <sup>2</sup> : For (12) and Against (5)
<b>5</b>	Region VI <sup>1</sup> (General)	<u>Action</u> : Deny appeal. <u>Reason</u> : There was no specific request or remedy stated in the appeal. <u>Direction</u> : Not applicable. <u>Voting</u> <sup>2</sup> : For (17) and Against (0)
<b>6</b>	Region VI (Specific)	<u>Action</u> : Appeal supported. <u>Reason</u> : The Board found that these provisions did not meet the scope and intent as set by the Board of Directors. <u>Direction</u> : Move to provisions to appendices. Includes: electric-ready, solar-ready and EV-charger ready provisions (only provisions 404.5, 404.6 and 404.7 of the renewable energy provisions) <u>Voting</u> <sup>2</sup> : For (12) and Against (5)
<b>7</b>	AGA	<u>Action</u> : Deny appeal. <u>Reason</u> : Appeals 7-9 were voted on together on the basis that the requested remedies had already been approved in prior Board actions. <u>Direction</u> : Not applicable. <u>Voting</u> <sup>2</sup> : For (17) and Against (0)

<i>Appeal</i>	<i>Appellant</i>	<i>Decision</i>
8	APGA	<p><u>Action</u>: Deny appeal.</p> <p><u>Reason</u>: Appeals 7-9 were voted on together on the basis that the requested remedies had already been approved in prior Board actions.</p> <p><u>Direction</u>: Not applicable.</p> <p><u>Voting</u><sup>2</sup>: For (17) and Against (0)</p>
9	AHRI	<p><u>Action</u>: Deny appeal.</p> <p><u>Reason</u>: Appeals 7-9 were voted on together on the basis that the requested remedies had already been approved in prior Board actions.</p> <p><u>Direction</u>: Not applicable.</p> <p><u>Voting</u><sup>2</sup>: For (17) and Against (0)</p>

**Notes:**

1. There was no action asked for by the appellant, therefore there was no action for the ICC Board to take.
2. One Board member previously in attendance had left the meeting before this vote was taken.

## DISCUSSION OF DECISIONS

The ICC Board discussed the nine appeals individually and rendered the decisions presented in the table above.

# Appeals Board Recommendations Decisions

The Appeals Board recommended three actions moving forward for the ICC Board of Directors to consider. The ICC Board accepted the three recommendations with some exceptions as noted and added an additional recommendation.

## SUMMARY OF DECISIONS

The following table summarizes the decisions of the ICC Board relating to the recommendations provided by the Appeals Board.

**Table 3 Appeals Board Recommendation and Subsequent Board Action**

<i>Recommendation</i>	<i>Action</i>
1 Appeals Concerning Scope and Intent Issues	Unanimously accepted the following recommendation: Preceding commencement of development of the 2027 IECC, the ICC Board of Directors should work with staff to clarify the Scope and Intent.
2 Appeals Concerning Procedural Specific Issues	Unanimously accepted: ICC staff and the Board of Directors should provide additional education on the standards development process, the role of the consensus committees, and the opportunities for engagement by governmental representatives and other stakeholders.



Recommendation	Action
<p><b>3</b> Appeals Concerning Cost Analysis Issues</p>	<p>Unanimously accepted: The ICC Board should clarify that the role of ICC staff is to ensure the required elements of the cost impact are provided, and that it is the responsibility of the committee to determine if the cost impact information provided is sufficient to inform the committee’s decision-making process in accordance with applicable council policies and evaluate the validity of the cost analysis itself.</p>
<p><b>4</b> The ICC Board of Directors Reviews the Appeals Procedures (CP-01).<sup>1</sup></p>	<p>New ICC Board of Directors recommendation, unanimously accepted: The ICC Board review and evaluate the Appeals Process and make adjustments that render the process more efficient.</p> <p><u>Justification:</u> The effort involved by all parties is considerable and given the actions of the ICC Board of Directors on these appeals, the relevance of the current council policy on ICC Consensus Standards needs to be reevaluated.</p>

*Note:*

- 1. The ICC Board of Directors added this recommendation to those provided by the Appeals Board.*

## DISCUSSION OF DECISIONS

Implementation of the recommendations will be addressed through future actions of the ICC Board of Directors.

# Appendices

The following supporting information is provided relating to the 2024 IECC Appeals ICC Board of Directors Hearings.

## Pulse Public Notice

Following the Board of Directors decision ICC issued a summary statement of the decisions made by the board through an [ICC Pulse published on March 20, 2024](#). The following is the text of the Pulse notice.

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### ***The International Code Council Board of Directors Makes Final Decision on 2024 IECC Appeals and Addresses Preemption Challenges***

*On March 18, 2024, the International Code Council Board of Directors voted to affirm in part and reject in part nine appeals filed by five appellants to a draft of the 2024 commercial and residential editions of the International Energy Conservation Code® (IECC®). The Board also addressed several claims that aspects of the draft 2024 IECC codes were preempted by the federal Energy Policy and Conservation Act.*

#### **The Appeals**

*The appeals were focused on the IECC’s scope and intent, consensus building approaches, procedural specific issues, and subject specific issues. The International Code Council Board of Directors determined that the [scope and intent governing the 2024 IECC](#) prohibited the inclusion of measures that did not directly affect building energy conservation within the base of the draft 2024 IECC, as the intent of both the commercial and residential 2024 IECC codes is limited to “providing minimum efficiency requirements for buildings that result in the maximum level of energy efficiency that is safe, technologically feasible, and life cycle cost effective considering economic feasibility, including potential costs and saving for consumers and building owners, and return on investment.” The Board further determined that alternative measures, including measures without direct impacts to building energy conservation, but that may reduce greenhouse gas emissions, could be included as appendix materials given the [intent of both the residential and commercial IECC codes](#) provides that “[t]he code may include nonmandatory appendices incorporating additional energy efficiency and greenhouse gas reduction resources.”*

*Based on this interpretation, the Board resolved that several challenged provisions that the Board viewed as concerning greenhouse gas reduction and not building energy conservation be removed from within the base of the draft 2024 IECC codes and placed in appendices to accompany the codes. The affected provisions moved to an appendix include:*

- *Sections C406.1.1.1 and C502.3.7.1 (heat pump products)*
- *Sections C403.4.6, C404.10, C405.2.8, R403.5.4 and N1103.5.4 (demand response)*
- *Sections C405.14, R404.7, and N1104.7 (electric vehicle charging infrastructure)*
- *Section C405.16 (electrical energy storage system readiness)*
- *Sections R404.6 and N1104.6 (solar readiness)*
- *Sections R404.5 and N1104.5 (electric readiness)*

### **Preemption**

The Board also considered concerns voiced by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) that provisions in the draft IECC codes were federally preempted by the Energy Policy and Conservation Act. Where the Board determined there was a significant risk of preemption based on case law or the Board had concerns about the ability to comply with provisions using minimum efficiency equipment, the Board decided to move those provisions to a resource with a cautionary note regarding the risk of preemption. Affected provisions include:

- Appendix CG (all-electric commercial) and Appendix RE (all-electric residential): moved to resource due to significant risk of preemption based on case law
- Appendix CD Section CD101.1 and Table CD101.1 (prescriptive glide path to net zero): moved to resource due to significant risk of preemption based on an inability to comply with minimum efficiency equipment
- Appendix RG (glide path to net zero): retained as an appendix with a cautionary note regarding the limited compliance options for minimum efficiency equipment in specific climate zones

### **Finalization of the 2024 IECC**

The Board's determinations mark the conclusion of the 2024 IECC's development and the code's finalization. The 2024 IECC builds on the 2021 edition and is anticipated to improve energy efficiency by roughly 6.5% for residential buildings and by 10% for commercial buildings. For jurisdictions seeking to incorporate additional greenhouse gas reduction measures, the code will contain new options for electrical vehicle charging infrastructure, energy storage systems, electric readiness, and demand responsive controls. The Code Council deeply appreciates the extensive work of the 2024 IECC development committees and stakeholders who participated in the development process and the subsequent appeals.

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